



UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
FROM DIRECTOR'S OFFICE

FEB 19 2008

TECHNOLOGY CENTER 3600

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patrick M. Dwyer
Patrick M. Dwyer, PC
Box 322
14419 Greenwood Avenue N
Seattle WA 98133

In re Application of:

Steven C. Robertson

Application No.: 10/634,627

Filed: August 5, 2003

Attorney Docket No.: ROBERT.P00D1

For: SYSTEM AND METHOD FOR
PROVIDING ELECTRONIC
MULTI-MERCHANT GIFT REGISTRY
SERVICES OVER A DISTRIBUTED
NETWORK

PETITION TO
RECONSIDER PETITION
UNDER
37 C.F.R. 1.181

This decision is in response to Appellant's petition filed on December 26, 2007 requesting reconsideration of the petition under 37 CFR 1.181 filed August 16, 2007. The August 16, 2007 petition sought to set aside every part of the rejections made final in the Office action mailed January 31, 2007 that are based upon improper use of official notice.

The petition is **DENIED**.

Discussion

Consideration has been given to Petitioner's comments filed August 16, 2007, as well as to Petitioner's comments filed December 26, 2007.

Both petitions seek for the Director to set aside every part of the rejections that are based upon the improper use of Official Notice. This proposed remedy is offered at page 4 of the August 16, 2007 petition, and again at page 2 of the December 26, 2007 petition.

The setting-aside of rejections by petition is not an available remedy to a procedural impropriety of the type alleged by Petitioner. The setting-aside of the rejections as "the only remedy" here would not serve to cure any alleged procedural deficiency. Rather, the setting-aside of the rejections here would serve merely to remove the rejections from consideration on their merits by the Board of Patent Appeals and Interferences.

The rejections are properly before the Board of Patent Appeals and Interferences because the Examiner has refused to grant claims based upon a determination by the Examiner that claims 29-37 and 39-47 are obvious under 35 USC 103. Rejections involving the merits of the claim are subject to review by the Board of Patent Appeals and Interferences and will, therefore, not be reviewed by the Director. MPEP 706.01.

Subsequent to the filing of this petition, Applicant has filed a "Reply to Examiner's Answer" on January 28, 2008. A communication in response to the "Reply to Examiner's Answer" will follow in due course.

Any questions concerning this decision should be directed to Jeffrey A. Smith at (571) 272-6763.



Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

WC/jas: 02/01/2008

